
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DAVID GENE KNOCHE,

Defendant.

**MEMORANDUM DECISION
AND ORDER**

Case No. 2:16-cr-0079

Judge Clark Waddoups

This matter is before the court on a Motion to for Extension of Time. Mr. Knoche requests an extension of time to reply to a Memorandum Decision and Order issued on December 1, 2023. A reply brief is not the proper procedural tool to address a final Memorandum Decision and Order. If Mr. Knoche wishes to appeal the decision, he must follow the deadlines set forth under Rule 4 of the Federal Rules of Appellate Procedure.

Rule 4(b)(1)(A) states that a defendant must file a Notice of Appeal within fourteen days after “the entry of either the judgment or the order being appealed.” Fed. R. App. P. 4(b)(1)(A). The court issued its ruling on December 1, 2023. Mr. Knoche had until December 15, 2023 to file a Notice of Appeal. He did not do so. Nevertheless, Rule 4(b)(4) states:

Upon a finding of excusable neglect or good cause, the district court may—before or after the time has expired, with or without motion and notice —extend the time to file a notice of appeal for a period not to exceed 30 days from the *expiration of the time* otherwise prescribed by this Rule 4(b).

Fed. R. App. P 4(b)(4) (emphasis added.)

Mr. Knoche asserts he did not receive the court's decision until December 8, 2023. Because he is imprisoned and operating *pro se*, and has limited access to a legal library, the delay in receipt of the court's decision would be prejudicial to Mr. Knoche were an extension not granted. Moreover, Mr. Knoche acted promptly by mailing his request within 10 days of receiving the decision. Postmark on Envelope (ECF No. 66-1). The court therefore finds good cause exists to extend the time for Mr. Knoche to file a Notice of Appeal.

As stated above, the deadline for filing a Notice of Appeal was December 15, 2023. Thirty days from expiration of that time falls on Sunday, January 14, 2024. Accordingly, the court extends the deadline to Monday, January 15, 2024, for Mr. Knoche to file a Notice of Appeal.

CONCLUSION

For the reasons stated above, the court grants in part and denies in part Mr. Knoche's request for an extension of time (ECF No. 66). The court denies an extension to file a reply brief because a reply brief is not a proper procedural tool. The court grants an extension for Mr. Knoche to file a Notice of Appeal on or before Monday, January 15, 2024.

DATED this 26th day of December, 2023.

BY THE COURT:



Clark Waddoups
United States District Judge